

Appl. No. 10/603,977
Docket No. 8982C&
Amtd. dated August 7, 2006
Reply to Office Action mailed on July 6, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1 – 56 are pending in the present application. No additional claims fee is believed to be due. Applicant notes that Office Action states that Claims 1-69 are pending in this application. However, Applicants record shows that the application comprises 1-56 claims. If there is a discrepancy according to the case file, please kindly notify Applicants.

Response to Restriction Requirement

Restriction of Applicants' claimed invention has been required under 35 U.S.C. §121. The Office Action contends that restriction to one of the following inventions is required under 35 U.S.C. 121 and 372:

Group 1, claim(s) 1-40 and 44-56, drawn to a hair styling device and method of straightening the hair.

Group ii, claim(s) 41-43, drawn to a hair composition.

For the purpose of complying with the election request, Applicants provisionally elect, with traverse, Group 1, claim(s) 1-40 and 44-56, drawn to a hair styling device and method of straightening the hair, holding Group ii, claim(s) 41-43, drawn to a hair composition, in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

The restriction requirements are respectfully traversed herein.

The Office Action submits that Group I and II do not relate to a single general inventive concept and they lack the same or corresponding special technical features for the following reasons: The Office action further asserts the invention of Group I does not require the particular hair composition of Group I and also the hair composition of Group II can be used with different type of hair styling devices.

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Applicants respectfully submit that Group I and Group II are so closely interrelated and in order to preserve unity of invention, these should be prosecuted in the same application. The PTO examination would be simplified and duplicate searching eliminated by pursuing one as opposed to two or more applications.

Applicants respectfully point out that the major reason for restriction requirements is the unduly burdensome effect in searching the art for a variety of distinct species. Applicants respectfully submit that it would not be unduly burdensome to search for and examine all of the species in the present application. Restriction is proper only when the inventions are independent or distinct as claimed and it would be unduly burdensome to search for and examine all of the inventions in a single application (see MPEP 803). It is submitted that prosecution of all of the species in this present single application would also be permitted and would indeed be quite appropriate. It is submitted that in the present case, any prior art search set up for the Group I would be coextensive with that of Group II. Likewise, any prior art search set up for the Group I would be coextensive with that of Group II because they involve related compositional material.

Without a sufficient showing of independence, or relatedness with proper showing of distinctness, the restriction requirement is improper and should be withdrawn.

Conclusion

In view of the foregoing remarks, it is therefore respectfully submitted that the restriction requirement and election be withdrawn in the instant case and Claims 1-56, be permitted to be prosecuted in the same application.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By Linda M. Sivik
Signature

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